IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 5TH OCTOBER 2007 / 13TH ASWINA 1929

WP(C).No. 29543 of 2007(P)

AGAINST THE ORDER IN IA.1994/2007 IN OS.190/2007 of ADDL.SUB COURT, PALAKKAD
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PETITIONER:

FATHIMA @FATHIMABI,
W/O. LATE PALLATH HAMSA,
ARAKURSI AMSOM AND DESOM,
MANNARKKAD TALUK, PALAKKAD DISTRICTA.

BY ADV. SRI.K.MUHAMMED SALAHUDHEEN

RESPONDENTS:

AVARA HAJI
S/O. KATTUKANDAN KUNHAMMED HAJI
KULUKKAILIYAD AMSOM AND DESOM,
OTTAPPALAM TALUK,PALAKKAD DISTRICT.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

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W.P.C. NO. 29543 OF 2007

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Dated this the 5th day of October, 2007.

J U D G M E N T

This writ petition is filed challenging the order of the Addl. Sub Judge, Palakkad in I.A.1994/07 in O.S.190/07. The suit was originally instituted before the Sub Court, Ottappalam as O.S.166/99. It has been transferred to the Subordinate Judge, Palakkad for trial and disposal. During the pendency of the case before the Sub Court, Ottappalam applications had been filed by the present writ petitioner for admitting in evidence the copy of the audio cassettes produced by her in a criminal case pending before the Mannarkad First Class Magistrate Court. This Court dismissed that application mainly on the ground that it was only a copy. Now the petition is filed to call for the originals from the Mannarkkad Court and make PWs.1 and 2 hear the said version and to dispose of the matter.

2. The following facts are to be looked into for the purpose of considering the request. It is the definite case of

the writ petitioner in the written statement that the disputed document is concocted misusing her signed stamp papers lost from her son while he was riding on a motor cycle. Now, the writ petitioner wants to adduce evidence to prove that the disputed document is forged by misusing the signed stamped papers given by her son to the plaintiff as security at the time of borrowing Rs.1,50,000/-. It is in connection with this the audio cassette is attempted to be made use of. It is a settled principle of law that parties are bound and permitted to adduce evidence only in support of their respective pleadings. They cannot permit to travel beyond the pleadings and adduce evidence for a decision in the case. A party cannot be further permitted to adduce evidence which is directly contrary to the pleadings in the written statement as stated by me earlier. The pleaded case is that a blank signed paper carried by the son of the defendant flew off from the motor bike which has been collected by the plaintiff in the suit, a document is created and a suit is instituted. Now the party wants to have a complete

topsyturvy and contend that there has been an earlier transaction between the plaintiff and the defendant's son and at that point of time blank signed papers given by her had been handed over to the plaintiff which had been misused for the purpose of filing the suit. Such an evidence cannot be permitted in law and therefore I find the learned Subordinate Judge had applied his mind correctly to the facts and circumstances of the case and rejected that prayer. Therefore, the writ petition lacks merit and it is dismissed.

M.N. KRISHNAN, JUDGE.

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